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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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In the Matter of)

Billed Party Preference)
for 0+ InterLATA Calls)

Notice of Proposed Rulemaking
CC Docket No. 92-77

COMMENTS OF PILGRIM TELEPHONE, INC.

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Dated: July 15, 1992

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Pilgrim Telephone, Inc. ("Pilgrim"), by and through its attorneys, hereby files its comments in the above-referenced rulemaking proceeding.¹ Pilgrim has filed comments in the Proprietary Calling Card portion of this proceeding, stating its belief that proprietary cards are in the public interest, and that the services and opportunities provided consumers by these cards are consistent with the goals of the Commission in this proceeding.

Pilgrim recognizes that the Commission has tentatively decided that billed party preference may be in the public interest, but cautions the Commission to carefully consider the method of implementing billed party preference. The Commission should adopt safeguards to preserve maximum flexibility and choice for consumers, and minimize costs and telephone consumer dislocation.

¹ Billed Party Preference for 0+ InterLATA Calls, CC Docket No. 92-77, Notice of Proposed Rulemaking, FCC 92-169, released May 8, 1992 (NPRM).

Given the potential problems associated with billed party preference, however, Pilgrim requests that the Commission proceed cautiously and consider alternatives which achieve the same result.

I. Introduction

Pilgrim is an interexchange carrier ("IC") providing a variety of 800, dial 1 and other services on an interstate basis. Pilgrim would obviously be impacted by the adoption of a billed party preference plan, and recognizes that it could be a beneficiary of such a plan. Pilgrim is concerned about the adverse effects billed party preference implementation could have on its customers, and on telephone consumers as a whole.

Since the breakup of the Bell System in 1983, telephone consumers have been faced with an ever-increasing array of choices, rules and regulations concerning telephone service. The competition and resulting array of choices have been beneficial, but the necessary changes have bewildered end users. Consumers are frequently required to adapt to changes, usually confusing and often within a short time frame, to accommodate the necessary regulatory and competitive developments. The Commission has the opportunity to prevent further confusion during these early deliberations in this proceeding.

II. Maximum Consumer Flexibility And Choice Should Be Preserved Through Per Call Override Of Billed Party Preference

A. The Current System Provides Consumers With Flexibility And Choice

The current system provides substantial flexibility for the calling and called parties to choose the carrier which will handle a call. Three parties are typically involved in determining the carrier of 0+ calls under the current system -- the calling party, the billed party and the owner of the telephone from which the call is placed. Typically, the default choice of carrier is determined by the owner of the telephone. Calling parties may override this determination by the use of access codes and 800 numbers, and called parties which are billed for calls, such as collect calls, are given the opportunity to accept or reject the call. In addition, proprietary calling cards provide an effective means for calling parties to override presubscription. This current system of 0+ calling has generally proven to be a very flexible system for consumers.

B. The Shifting Of Default Choice Under Billed Party Preference Should Not Eliminate Current Flexibility

Billed party preference will shift the responsibility of the party who will designate the default carrier, focusing competition and the delivery of consumer service on the party who will pay for each call. If billed party preference is implemented

so that a single choice of carrier is determined in all cases by the billed party, consumers' ability to make per call override decisions will be restricted, causing significant harm to consumer choice and flexibility. For the reasons discussed below, the Commission should preserve the ability of the parties to the call to negotiate a different carrier, if desired, on a per call basis.

The Commission appears to recognize that inflexibility could result from billed party preference, and, as a result, addresses alternate carrier selection as a possible partial solution.² The NPRM recognizes that such a system may be difficult or expensive to implement, and an option discussed in the NPRM will provide for only one alternate choice. Instead of devising increasingly complex and expensive regulatory solutions, the Commission should adopt a market-based system which preserves consumer choice and flexibility so that the consumer can make override decisions when desired.

C. Pilgrim's Recommendations To Preserve Maximum Flexibility And Competition

To preserve maximum flexibility, Pilgrim recommends that the Commission require the LECs to provide an access code (10XXX) or "dial around" override to billed party preference for all calls normally routed by the billed party's preferred carrier. If it is the Commission's intent to preserve a dial around override, Pilgrim

² Id. at 14.

respectfully requests that this be explicitly adopted by the Commission to clearly communicate this interpretation to the industry. Local exchange carriers ("LECs") who are unwilling or unable to provide dial around overrides should be prevented from passing on the costs of system implementation until complete dial around capabilities are available.

D. Preserving Choice Will Ensure Access To Service, And Maximum Flexibility For Consumers

One of the most disturbing consequences of the elimination of flexibility in the per call designation of carriers would be the complete inability of some consumers to obtain any service at all. It is not difficult to envision a consumer being stranded, and unable to call home or call for help, because the billed party's presubscribed carrier is unable or unwilling to carry the call. A consumer may have traveled beyond a carrier's service area, a carrier's facilities may be out of order, there may be a billing dispute between a carrier and the billed party or a carrier may have temporarily discontinued service to the billed party because of suspected toll fraud.

If a caller does not know or possess special dialing instructions for calling 800 or 950 access, does not have access to change, or does not carry multiple calling cards, the caller may be denied service. The Commission should not adopt policies which could penalize a consumer for using a regional carrier, failure to

carry sizeable pocket change, unwillingness to carry multiple cards or failure to memorize a variety of 800 or 950 access codes and instructions.

E. Preserving Per Call Choice Will Ensure Active Competition Based Upon Costs And Services

Consumers using line-based cards or placing collect calls to their own home or business may desire to make per call choices of carrier for a number of reasons. These choices may be driven by issues of network quality provided to and from certain locations, or the comparable cost of calls to and from certain areas depending upon the carrier used. These differences may be a substantial aspect of the competitive strategy of regional carriers.

In addition to quality and cost, however, carriers may soon be competing for 1+ and 0+ service separately, and may be offering different 0+ service enhancements developed for different 0+ user markets. Preserving flexibility will enable carriers not only to compete on the basis of providing standard 0+ service, but also to offer service enhancements to high volume users of 0+ service, or stratify users of 0+ service depending upon particular needs. The needs of a traveling salesman and someone who only uses 0+ from their home or office may be entirely different, and may be met by different carriers. The Commission should implement policies which preserve and enhance development of these choices based upon separate markets.

Preservation of per call override and maximum flexibility will also ensure that the system is responsive to competitive pressures. Carriers know that the changing of a predesignated carrier is confusing for many consumers. This difficulty is evident from the number of proceedings and complaints at the Commission concerning presubscription. This confusion will be greatly enhanced when carriers try to explain the difference between 1+ and 0+ presubscription, and compete for different types of traffic. It will be easier for carriers to raise rates or otherwise inconvenience consumers unless they know that consumers can easily override the billed party preference and use a different carrier.

F. Preserving The Choice Will Be Consistent With Past And Present Commission Decisions

Per call override is consistent with past Commission decisions, and with the NPRM's stated goal to focus competition on the telephone consumer. The Commission has previously adopted policies ensuring consumers' choice of carrier, and guaranteeing that consumers' choice will not be preempted by public phone presubscription agreements.³ Open negotiation provided by per call

³ See, e.g., Policies and Rules Concerning Operator Service Access and Pay Telephone Compensation, CC Docket No. 91-35, Report and Order and Further Notice of Proposed Rulemaking, 6 FCC Rcd 4736 (1991).

override will enhance competition, which is a stated goal of the Commission in this proceeding.⁴

III. Billed Party Preference Will Impose A Greater Need For Uniform Prompting And Dialing Patterns

Billed party preference will require the LECs to gather digits at the dial tone for the called number, and to prompt the calling party for billing information. Consumers are already confronted with a bewildering array of public phone types and billing patterns. Not only do these differences occur from one geographic territory to the next, but also from one telephone to the next. Even those who work in the industry have difficulty operating the vast array of public phones with any confidence.

To ensure that billed party preference is implemented in a manner which is comprehensible to the telephone consumer, and provides a level playing field for all competitors, the Commission should ensure that dialing and prompting plans are uniform nationwide. The Commission should investigate the various billed party preference consumer interfaces which may vary from one LEC to the next, or one payphone to the next. Dialing and prompting plans should be made uniform with respect to the digits dialed, speed of dial-ahead permitted, pauses for additional tones or prompts for the calling party, text of the voice prompts, sounds or other

⁴ NPRM at 9.

special tones prompting the consumer and other details of call origination or termination which could otherwise vary from one LEC or payphone to another.

Pilgrim submits that the Commission should amend the Part 68 rules to ensure uniformity among public phones, and adopt rules requiring uniformity among the LECs. Amendment of these rules could guarantee uniform prompts, tones and dialing patterns, and thereby minimize consumer confusion.

IV. Network Harm Could Result From Implementation Of Billed Party Preference

A. Increased Network Outages May Result From System Centralization

The Commission should cautiously approach mandating billed party preference, or any other network changes, which further centralize call switching and routing functions. Centralized systems are more prone to failure, and provide less system backup. The current interstate system provides multiple backups not only within each carrier's network, but also as a function of numerous carriers with overlapping geographic coverage. If one IC's system goes down, traffic can be absorbed by other ICs. Centralization of one aspect of call processing could severely undermine system reliability.

Recently we have witnessed a number of catastrophic failures, some partly resulting from centralization of systems. In addition, comparison of Commission Network Reliability Council and Tele-Communications Association reports of network outages indicate that local exchange network outages are on the rise.⁵ Billed party preference will centralize more network switching and routing functions with the LECs, and remove more control from the hands of the ICs. As a result, the risk of catastrophic failure to IC networks occurring outside of the control of the ICs will increase with billed party preference.

B. Increased Digit Entry Delay Is Likely To Result From The Commission's Proposal

The billed party preference program under consideration by the Commission could substantially increase digit entry related delays in completing calls. Any system which requires multiple entries of digits will be much more complex than the current system, and will likely lead to an increased rate of call abandonment. Required multiple entries may also cause the development of non-uniform systems of digit entry between LECs and ICs, even within a single call, increasing consumer frustration and confusion. Should the Commission determine that the implementation of billed party preference is in the public interest, it should

⁵ See Network World, July 13, 1992, at 2.

carefully analyze the proposals to assure that additional digit entry requirements are not imposed.

C. Increased Post-Dial Delays Are Harmful To The Network And May Result From Billed Party Preference

The Commission has previously found that post-dial delay contributes significantly to consumer frustration and increased call abandonment.⁶ Post-dial delay has been the subject of numerous Commission investigations, and has caused the Commission to impose certain requirements upon the LECs in order to minimize this delay.⁷ As a result, the Commission has delayed implementation of 800 database offerings until the installation of Signalling System 7 in order to minimize additional post-dial delay.⁸

The Commission has also previously determined that post-dial delay causes network quality degradation, consumer dissatisfaction and increased network costs.⁹ The lower quality of

⁶ Southwestern Bell Telephone Co., New England Telephone and Telegraph Company, Mountain States Telephone and Telegraph Company, Contel Service Corp., Pacific Bell Telephone Company and New York Telephone Company, CC Docket No. 88-287, Memorandum Opinion and Order, 69 RR2d 448, 477-78 (1991) (Alternate Technologies Order).

⁷ Provision of Access for 800 Service, CC Docket No. 86-10, Memorandum Opinion and Order, 66 RR2d 623 (1989).

⁸ Id.

⁹ Alternate Technologies Order at 477.

service attributable to post-dial delay has been found to negatively affect impacted communities in the long run.¹⁰ Based upon these findings, the Commission has previously expressed a reluctance to require any action which increases post-dial delay on any call. The Commission should recognize that post-dial delay is a substantial concern in this proceeding, and should be reluctant to mandate the implementation of billed party preference until no contribution to post-dial delay can be demonstrated.

D. Centralization Of Billing Data Collection Will Frustrate And Discourage Billing Innovation

Finally, Pilgrim is concerned that adoption of a billed party preference regime, and centralization of the screening and routing functions with the LECs, will frustrate and discourage innovation in billing and call routing. These innovations will often depend upon the IC taking the billing data in a unique format, or integrating data collection with other functions, in order to create systems which are easier to use and provide enhanced service. Systems on the drawing board such as voice recognition billing and call acceptance systems would be rendered unnecessary and redundant if the LEC takes the billing data and passes the call to the IC. The Commission should not remove billing data collection from the ICs and place it in the hands of

¹⁰ Id.

the local loop monopoly, for doing so will frustrate attempts by ICs to innovate billing and routing services.

V. Billed Party Preference Is Unnecessary As The Underlying Problem Is Being Addressed By The Marketplace

The primary goal of the Commission in this proceeding is to permit the billed party to choose the carrier, and focus competition on the billed party. This goal is being addressed in the marketplace, and may be achieved without the adoption of complex regulatory schemes or the implementation of billed party preference.

The majority of 0+ calls are calling card calls. Carriers' issuance of proprietary calling cards adequately addresses the choice and competitive issues identified by the Commission by permitting the billed party to choose the carrier. Consumers may use either proprietary or non-proprietary calling cards, and use proprietary cards to guarantee their choice of carrier. As the proliferation of proprietary cards is focusing competition on the parties making, and paying for, these calls, there is no need to adopt an expensive and complex scheme to remedy a problem which has already been resolved in the marketplace.

The remainder of 0+ calls are primarily collect calls. In Pilgrim's experience, calling and billed parties are the same for the vast majority of collect calls, virtually eliminating any

billed party preference problems. For all calls where the calling and billed parties are different, however, the billed party is given the choice to accept or reject the call. Due to the Commission's branding requirements, the billed party is apprised of the carrier prior to accepting a call, and can refuse the call, retaining control over the carrier used. Should the Commission decide to provide more choice, however, it could mandate that the billed party, if refusing the call, must be permitted to request that the caller use a different carrier prior to disconnection, without charge.

VI. Conclusion

Pilgrim cautions the Commission to seriously consider the method of implementation of billed party preference to assure a smooth transition, minimum costs, minimum dislocation to telephone consumers, and preservation of maximum flexibility for and choice among consumers. The Commission should also seriously consider the adverse impact of billed party preference prior to its adoption. Although Pilgrim supports the Commission's general policy statement that the billed party should have the choice of carrier, Pilgrim submits that the resolution chosen by the Commission is awkward and potentially harmful to the network, and has already been addressed by the marketplace. The Commission should consider permitting other solutions developed in the marketplace, such as proprietary

calling cards, to resolve these issues, and resist the temptation to promulgate additional regulations in this area.

July 15, 1992

Respectfully submitted,

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CERTIFICATE OF SERVICE


It is hereby certified that copies of the foregoing
COMMENTS OF PILGRIM TELEPHONE, INC. were hand-delivered this 15th
day of July, 1992, to the following:

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and further that one copy will be forwarded on July 16, 1992, by
first-class mail, postage prepaid, to each party of record.



Walter Steimel, Jr.